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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PDC

DEPUTY

1 JEREMY A. ROTH, Bar No. 129007
 2 TINA M. FRYAR, Bar No. 190755
 3 MICHELLE S. PARK, Bar No. 199224
 4 LITTLER MENDELSON
 5 A Professional Corporation
 6 501 W. Broadway, Suite 900
 7 San Diego, CA 92101-3577
 8 Telephone: 619.232.0441
 9
 10 Attorneys for Defendant
 11 PFIZER, INC.

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 FERNANDO OBLITAS-RIOS, on behalf
 11 of himself and all others similarly situated,

12 Plaintiff,

13 v.

14 PFIZER, INC., a California Corporation;
 15 and DOES 1 - 100, inclusive,

16 Defendant.

Case No. 06 CV 2679BTM

POR

**NOTICE TO FEDERAL COURT OF
 REMOVAL OF CIVIL ACTION**

Complaint filed: November 1, 2006

17 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO PLAINTIFF AND HIS
 18 ATTORNEYS OF RECORD:

19 PLEASE TAKE NOTICE THAT Defendant PFIZER, INC. ("Defendant") hereby
 20 removes the state action described herein, filed in the Superior Court of the State of California,
 21 County of San Diego, to the United States District Court for the Southern District of California,
 22 pursuant to 28 U.S.C. sections 1441 and 1446. Defendant will promptly file in said Superior Court
 23 its Notice to State Court and All Adverse Parties of Removal of Civil Action. A true and correct
 24 copy of the Notice to state Court and All Adverse Parties of Removal of Civil Action, without its
 25 accompanying exhibits, is attached hereto as Exhibit "A." This case is being removed based on the
 26 existence of federal question jurisdiction.

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NOTICE TO FEDERAL COURT OF
 REMOVAL

Case No. _____

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The grounds for removal are as follows:

1. On November 1, 2006, an action was commenced against Defendant in the Superior Court of the State of California, County of San Diego, entitled Fernando Oblitas-Rios, on behalf of himself and all others similarly situated vs. Pfizer, Inc., a California Corporation, and DOES 1—100, inclusive, Case No. GIC 874925.

2. Defendant was served with a copy of the Summons and a copy of the Complaint on November 10, 2006. Copies of the Summons, the Complaint, the Civil Case Cover Sheet, and the Notice of Case Assignment are attached hereto as Exhibits "B", "C", "D", and "E." These Exhibits constitute all of the papers received by Defendant in the state court action.

3. Defendant timely filed its Answer to Plaintiff's Complaint ("Answer") on December 7, 2006. A copy of its Answer is attached hereto as Exhibit "F."

4. This Notice to Federal Court of Removal of Civil Action is timely in that it is filed within thirty (30) days after Defendant was served with the Summons and Complaint. Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 119 S.Ct. 1322 (1999); McAnally Enterprises, Inc. v. McAnally, 107 F. Supp. 2d 1223, 1229 (C.D. Cal. 2000).

5. This action is a civil action on which this Court has original jurisdiction under 28 U.S.C. section 1331 and 1332(a)(1) and (c)(1) and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. sections 1441 (a), (b) and (c).

6. Federal question jurisdiction exists based upon the following:

a. The Complaint (“Complaint”) alleges several causes of action for failure to pay overtime wages, failure to pay minimum wages, and related causes of action under the Fair Labor Standards Act (“FLSA”), Title 29 of the United States Code sections 201 *et seq.*, California Labor Code sections 1194 and 203, and Labor Code sections 226.7 and 226. Complaint (“Compl.”), *passim*. Specifically, Plaintiff alleges in his Complaint, among other things, that “. . . Defendants fail[ed] to pay overtime pursuant to Business & Professions Code sections 17200 *et seq.*, 29 U.S.C. sections 201 *et seq.* [the Fair Labor Standards Act (“FLSA”)], Labor Code section 1194, Wage Order 4, section 3, Labor Code section . . . 226.7.” Compl., at ¶ 3 (emphasis added). Further, Plaintiff alleges that “[t]his is a civil action seeking recovery for Plaintiff and all Class Members of

1 overtime wages, denied meal and rest period pay, penalties for failure to comply with wage
2 statement provisions ... under California Labor Code sections 1194 and 203, I.W.C. Wage Order 4,
3 section 4, Labor Code section 226.7, Labor Code section 226, *and 29 U.S.C. sections 201 et seq., the*
4 *Fair Labor Standards Act (FLSA).*" Compl., at ¶ 1 (emphasis added). Plaintiff alleges that "[t]he
5 Fair Labor Standards Act, 29 U.S.C. section 201 et seq., (FLSA) states that an employee must be
6 paid overtime, equal to 1.5 times the employee's rate of pay, for all hours worked in excess of 40 per
7 week. This court has concurrent jurisdiction over claims involving the FLSA pursuant to 29 U.S.C.
8 section 216(b)." Compl., at ¶ 36. Further, Plaintiff alleges that "Overtime Subclass B members
9 regularly work more than 40 hours per week, but are not paid overtime. Subclass B members were
10 not "exempt" under the FLSA ..." Compl., at ¶ 37.

16 7. Venue is proper in this Court in that this is the Court of the District embracing
17 the place where the action is pending in state court. 28 U.S.C. § 1441(a).

18 8. No bond is required for removal. 28 U.S.C. § 1446(d); Rezendes v. Dow
19 Corning Corp., 717 F. Supp. 1435, 1438 n.2 (E.D. Cal. 1989).

22 | Dated: December 8, 2006

JEREMY A. ROTH
TINA M. FRYAR
MICHELLE S. PARK
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
PFIZER, INC.

Firmwide:81729948.1 051034.1019
**NOTICE TO FEDERAL COURT OF
REMOVAL**

3. Case No. _____

ORIGINAL

1 **PROOF OF SERVICE**
23 I am a resident of the State of California, over the age of eighteen years, and not a
4 party to the within action. My business address is 701 "B" Street, #324, San Diego, California
5 92101. On December 8, 2006, I served the within document(s):6 **NOTICE TO FEDERAL COURT OF REMOVAL OF CIVIL
7 ACTION**8 **DEFENDANT'S NOTICE OF PARTY WITH FINANCIAL
INTEREST**9 **NOTICE OF RELATED CASES**10 **DECLARATION OF JEREMY A. ROTH REGARDING
11 NOTICE TO STATE COURT OF REMOVING OF CIVIL
ACTION TO FEDERAL COURT**12 **CIVIL COVER SHEET**13 by personally delivering a copy of the document(s) listed above to the person(s) at
14 the address(es) set forth below.15 Timothy D. Cohelan, Esq. Attorneys for Plaintiffs
16 Isam C. Khoury, Esq.
17 Michael D. Singer, Esq.
18 COHELAN & KHOURY
19 605 C Street, Suite 200
20 San Diego, CA 92101-5305
21 Phone: 619.595.3001
22 Fax: 619.595.3000

23 Executed on December 8, 2006, at San Diego, California.

24 
2526 WORLDWIDE NETWORK
27

JEREMY A. ROTH, Bar No. 129007
TINA M. FRYAR, Bar No. 190755
MICHELLE S. PARK, Bar No. 199224
LITTLER MENDELSON
A Professional Corporation
501 W. Broadway, Suite 900
San Diego, CA 92101-3577
Telephone: 619.232.0441

Attorneys for Defendant
PFIZER, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

FERNANDO OBLITAS-RIOS, on behalf of himself and all others similarly situated,

Case No. GIC 874925

Plaintiff,

1

PFIZER, INC., a California Corporation;
and DOES 1 - 100, inclusive.

**NOTICE TO STATE COURT AND ALL
ADVERSE PARTIES OF REMOVAL OF
CIVIL ACTION**

Complaint filed: November 1, 2006

Defendant.

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO PLAINTIFF AND HIS
2 ATTORNEYS OF RECORD:

3 PLEASE TAKE NOTICE THAT Defendant PFIZER, INC. filed on December 8,
4 2006, its Notice to Federal Court of Removal of Civil Action in the office of the Clerk of the United
5 States District Court for the Southern District of California pursuant to 28 U.S.C. sections 1331,
6 1332, 1441 and 1446. Copies of said notice and its accompanying exhibits are attached hereto as
7 Exhibit "1."

8 PLEASE TAKE FURTHER NOTICE THAT the filing of said notice in Federal
9 Court, together with the filing of a copy of said notice with this Court, effects the removal of this
10 action in accordance with 28 U.S.C. section 1446(d).

11 Dated: December 8, 2006



12
13 JEREMY A. ROTH
14 TINA M. FRYAR
15 MICHELLE S. PARK
16 LITTLER MENDELSON
A Professional Corporation
17 Attorneys for Defendant
18 PFIZER, INC.
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**SUMMONS
(CITACION JUDICIAL)**

SUM-100

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

PFIZER, INC., a California Corporation; and DOES 1-CIVIL
100, inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FEDERAL BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE

2006 NOV -1 P 3:45

CLERK, SAN DIEGO COUNTY, CA
SAN DIEGO, CA

YOU ARE BEING SUED BY PLAINTIFF:**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

FERNANDO OBLITAS-RIOS, on behalf of himself and all others similarly situated

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):
San Diego Superior Court
Hall of Justice
330 West Broadway
San Diego, CA 92101
Central

CASE NUMBER:
(Número del Caso): **GIC 874925**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Timothy D. Cohelan, Esq. SBN 60827 619-595-3001 619-595-3000
Michael D. Singer, Esq. SBN 115301
COHELAN & KHOURY, 605 C Street, Suite 200
San Diego, CA 92101

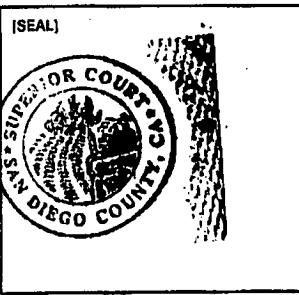
DATE: **NOV 01 2006**
(Fecha)

Clerk, by B. Morgan, Deputy
(Secretario) B. MORGAN (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):
3. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
4. by personal delivery on (date):



Plaintiff
11/10/06

GE/320

CIVIL
CX/558

2005 NOV -1 P 3:45

1 Timothy D. Cohelan, Esq., SBN 60827
 2 Isam C. Khoury, Esq., SBN 58759
 3 Michael D. Singer, Esq., SBN 115301 ✓
COHELAN & KHOURY
 4 605 C Street, Suite 200
 5 San Diego, CA 92101-5305
 6 TEL: (619) 595-3001
 7 FAX: (619) 595-3000

6 Attorneys for Plaintiff FERNANDO OBLITAS-RIOS
 7 on behalf of himself and all others similarly situated

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **COUNTY OF SAN DIEGO**

10 FERNANDO OBLITAS-RIOS, on behalf of) CASE NO. **GIC 874925**
 11 himself and all others similarly situated,)
 12)
 13 Plaintiff,)
 14)
 15 vs.)
 16)
 17 PFIZER, INC., a California Corporation; and)
 18 DOES 1-100, inclusive,)
 19)
 20 Defendants.)

)
 1. Restitution of Overtime Wages (Bus. &
 Professions Code 17200, et seq.; 29 U.S.C.
 §§201, et seq.)
 2. Restitution of Overtime Wages (I.W.C.
 Wage Order 4-2001)
 3. Failure to Pay Overtime Wages (Labor
 Code §1194)
 4. Restitution of Overtime Wages (Bus. &
 Prof. Code §§17200 et seq.)
 5. Failure to Pay Overtime Wages (Labor
 Code §1194)
 6. Failure to Pay Minimum Wages (I.W.C.
 Wage Order 4, Section 4; Labor Code
 §1194)
 7. Failure to Provide Meal Periods (Labor
 Code §226.7)
 8. Failure to Provide Rest Periods (Labor
 Code §226.7)
 9. Illegal Record Keeping (Labor Code
 §226)
 10. Unfair Business Practices (Bus. & Prof.
 Code §17200, et seq.)
 11. Conversion

CLASS ACTION COMPLAINT

Tim
Danner

) 12. Declaratory Relief
) DEMAND FOR JURY TRIAL

Plaintiff FERNANDO OBLITAS-RIOS, on behalf of himself and all others similarly situated (herein referred to as "Plaintiff"), hereby files this Complaint against Defendants PFIZER, INC. and DOES 1-100 (hereinafter collectively referred to as "Defendants" or "PFIZER"). Plaintiff is informed and believes, and on the basis of that information and belief, alleges as follows:

1.

INTRODUCTION

11 1. This is a civil action seeking recovery for Plaintiff and all Class Members of
12 overtime wages, denied meal and rest period pay, penalties for failure to comply with wage
13 statement provisions which are derivative of the causes action in this Complaint, and waiting
14 time penalties, plus interest, attorneys' fees and costs under California Labor Code sections
15 1194 and 203, I.W.C. Wage Order 4, section 4, Labor Code section 226.7, Labor Code section
16 226, and 29 U.S.C. sections 201 et seq., the Fair Labor Standards Act (FLSA). Plaintiff, on
17 behalf of himself and all other members of the class alleged herein, also brings an action for
18 monetary recovery for Defendants' violations of California Business and Professions Code
19 sections 17200, et seq., including full restitution of all compensation retained by Defendants as a
20 result of their unlawful, fraudulent and unfair business practices, as well as injunctive relief.

21 2. Defendants operate and, at all times during the relevant time period or liability
22 period (four years prior to the filing of the Complaint in this matter), have done business as a
23 manufacturer of prescription drugs throughout the state of California. Defendants have, among
24 other things, employed persons as Pharmaceuticals Representatives and/or equivalent positions
25 to promote and market prescription drugs manufactured by PFIZER to physicians and hospitals

26 3. Defendants' corporation manufactures prescription drugs and sells the same to
27 physicians, hospitals, and pharmacies within the state of California and throughout the United
28 States. In their endeavor, Defendants employs Pharmaceutical Representatives, to promote and
CLASS ACTION COMPLAINT

1 market the various prescription drugs manufactured by them. At no time do the Pharmaceutical
2 Representatives directly or indirectly sell prescription drugs to physicians, hospitals, or
3 pharmacies. It is Defendants' uniform policy and procedure to pay Pharmaceuticals
4 Representatives a base salary and a bonus without premium overtime pay or denied meal and
5 rest period compensation, and in so doing Defendants fail to pay overtime pursuant to Business
6 & Professions Code sections 17200 et seq., 29 U.S.C. sections 201 et seq., Labor Code section
7 1194, Wage Order 4, section 3, Labor Code section and 226.7.

8 **II.**

9 **JURISDICTION AND VENUE**

10 4. Plaintiff FERNANDO OBLITAS-RIOS is an individual residing in the County
11 of San Diego, State of California. Plaintiff was employed by PFIZER at all times relevant
12 herein. The Plaintiff and each Class Member was an employee of Defendant PFIZER within the
13 State of California and was subject to the unlawful policies during the past four years.

14 5. Plaintiff brings this action on behalf of himself, similarly situated employees of
15 Defendant PFIZER and the public pursuant to Business and Professions Code sections 17200, et
16 seq.

17 6. At all times herein mentioned, on information and belief, Defendant PFIZER,
18 INC. was and is a corporation organized and existing under the laws of the State of California
19 and licensed to do business in California, and, in concert with other defendants, were and are
20 doing business in California, including the County of San Diego.

21 7. The California Superior Court has jurisdiction in this matter due to PFIZER's
22 violations of Labor Code sections 203, 226, 226.7, 512, and 1194, and Business and Professions
23 Code sections 17200, et seq., and related common law principles.

24 8. The California Superior Court also has jurisdiction in this matter because both
25 the individual and aggregate monetary damages and restitution sought herein exceed the
26 minimal jurisdictional limits of the Superior Court and will be established at trial, according to
27 proof. Venue as to each Defendant is proper in this judicial district, pursuant to California Code
28 of Civil Procedure sections 395 (a) and 395.5 because plaintiffs reside in San Diego County and

CLASS ACTION COMPLAINT

1 at least some of the acts complained of herein occurred in the County of San Diego. Each
2 Defendant either owns, maintains offices, transacts business, has an agent or agents within the
3 County of San Diego, has its principal place of business in the County of San Diego or
4 otherwise is found within the County of San Diego and each Defendant is within the jurisdiction
5 of this Court for purposes of service of process.

6 **III.**

7 **PARTIES**

8 **A. Plaintiff**

9 9. Plaintiff FERNANDO OBLITAS-RIOS is an individual over the age of eighteen
10 (18) and is and/or at all times mentioned in this Complaint was a resident of the state of
11 California.

12 10. Plaintiff FERNANDO OBLITAS-RIOS has worked for Defendants as a
13 California-based Pharmaceuticals Representative during the relevant time period.

14 11. Plaintiff FERNANDO OBLITAS-RIOS was required to work hours in excess of
15 eight hours per day and 40 hours per week without being paid premium overtime wages and was
16 not paid denied meal and rest period pay.

17 12. Plaintiff FERNANDO OBLITAS-RIOS alleges that Defendants did not maintain
18 accurate records pursuant to Labor Code section 226(a) and seeks penalties from Defendants
19 pursuant to Labor Code section 226(e).

20 13. Plaintiff FERNANDO OBLITAS-RIOS no longer works for Defendants and
21 seeks waiting time penalties from Defendants pursuant to Defendants' violations of Labor Code
22 section 203.

23 **B. Defendants**

24 14. Defendant PFIZER, INC. is now and/or at all times mentioned in this Complaint
25 was a California Corporation qualified to do business and actually doing business in the state of
26 California. PFIZER, INC. owns and operates an industry, business and establishment in
27 numerous separate geographical locations within the state of California, including, but not
28 limited to, the County of San Diego, for the purpose of manufacturing prescription drugs, and

CLASS ACTION COMPLAINT

1 selling the same to physicians, hospitals, and pharmacies within the state of California and
2 throughout the United States.

3 15. DOES 1 through 100, inclusive are now, and/or at all times mentioned in this
4 Complaint were, licensed to do business and/or actually doing business in the state of California.

5 16. The true names and capacities, whether individual, corporate, associate, or
6 otherwise, of Defendants sued herein as DOES 1 through 100, inclusive, are currently unknown
7 to Plaintiff, who therefore sues Defendants by such fictitious. Plaintiff is informed and believes,
8 and based thereon alleges, that each of the Defendants designated herein as a DOE is legally
9 responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of
10 court to amend this Complaint to reflect the true names and capacities of the Defendants
11 designated hereinafter as DOES when such identities become known.

12 17. Plaintiff is informed and believes, and based thereon alleges, that each
13 Defendant acted in all respects pertinent to this action as the agent of the other Defendants,
14 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of
15 each Defendants are legally attributable to the other Defendants as each Defendant has ratified,
16 approved, and authorized the acts of each of the remaining Defendants with full knowledge of
17 said acts.

18 IV.

19 CLASS ACTION ALLEGATIONS

20 18. Plaintiff brings this action on behalf of himself and all others similarly situated,
21 as a class action pursuant to California Code of Civil Procedure section 382. The class which
22 Plaintiff seeks to represent is composed of and defined as follows:

23
24 All current and former California-based employees having a title
25 of Pharmaceutical Representative and/or other similarly
26 designated titles, who have worked for Defendant PFIZER, INC.
within the last four (4) years from the filing of the Complaint up
to and including the time of trial for this matter (hereafter
"Pharmaceutical Representatives").

27 19. The subclasses Plaintiff will seek to certify are currently composed of and
28 defined as follows:

CLASS ACTION COMPLAINT

1 a. All of Defendants' California-based Pharmaceutical Representatives who
2 worked in excess of 8 hours per day and/or 40 hours per week during the applicable statutory
3 period who were not paid overtime wages (hereinafter, "Overtime Subclass A");

7 c. All of Defendants' California-based Pharmaceutical Representatives who
8 Defendant mis-classified as exempt from overtime requirements during the applicable statutory
9 period under exemptions other than the commissioned salesperson exemption ("Overtime
10 Subclass C");

11 d. All of Defendants' California-based Pharmaceutical Representatives and
12 related positions, who did not receive all meal periods or commensurate pay during the
13 applicable statutory period (hereinafter, "Meal Period Subclass");

14 e. All of Defendants' California-based Pharmaceutical Representatives and
15 related positions, who did not receive all rest periods or commensurate pay during the applicable
16 statutory period(hereinafter, "Rest Period Subclass");

17 f. All of Defendants' California-based employees during the relevant time
18 period for whom Defendants did not maintain accurate records regarding deductions and gross
19 and net wages earned pursuant to Labor Code section 226(a) during the applicable statutory
20 period (hereinafter, the "Illegal Records Subclass").

21 20. The Overtime Subclass A, Overtime Subclass B, Overtime Subclass C, Meal
22 Period Subclass, Rest Period Subclass and Illegal Records Subclass are hereinafter collectively
23 referred to as the "Subclasses."

24 21. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or
25 necessary to amend the definition of the Class or Subclasses. In any event, Plaintiff will
26 formally define and designate a class definition at such time when Plaintiff seeks to certify the
27 Class and Subclasses alleged herein.

1 22. **Ascertainable Class:** The proposed class and each subclass are ascertainable in
 2 that their members can be identified and located using information contained in Defendants'
 3 payroll and personnel records.

4 23. **Numerosity:** The potential quantity of members of the Class and Subclasses as
 5 defined is so numerous that joinder of all members would be unfeasible and impractical. The
 6 disposition of their claims through this class action will benefit both the parties and this Court.
 7 The quantity of members of the Class and Subclasses is unknown to Plaintiff at this time,
 8 however, it is estimated that each the Class and Subclasses number is well in excess of 100
 9 individuals. The quantity and identity of such membership is readily ascertainable via inspection
 10 of Defendants' records.

11 24. **Typicality:** The claims of Plaintiff FERNANDO OBLITAS-RIOS for overtime
 12 wages, denied meal and rest period compensation, penalties, interest, and attorney's fees are
 13 typical of the claims of all members of the Class and Subclasses mentioned herein because all
 14 members of the Class and Subclasses sustained similar injuries and damages arising out of
 15 Defendants' common course of conduct in violation of law and the injuries and damages of all
 16 members of the Class and Subclasses were caused by Defendants' wrongful conduct in violation
 17 of law, as alleged herein.

18 25. **Adequacy:** Plaintiff FERNANDO OBLITAS-RIOS is an adequate representative
 19 of the Class and Subclasses herein, will fairly protect the interests of the members of the Class
 20 and Subclasses, has no interests antagonistic to the members of the Class and Subclasses and
 21 will vigorously pursue this suit via attorneys who are competent, skilled and experienced in
 22 litigating matters of this type. Class Counsel are competent and experienced in litigating large
 23 employment law class actions.

24 26. **Superiority:** The nature of this action and the nature of laws available to Plaintiff
 25 make use of the class action format a particularly efficient and appropriate procedure to afford
 26 relief to Plaintiff for the wrongs alleged herein, as follows:

27

28

1 a. This case involves large corporate Defendants and a large number of
2 individual Class Members with many relatively small claims and common issues of law and
3 fact;

4 b. If each individual member of each of the Class and Subclasses was
5 required to file an individual lawsuit, the large corporate Defendants would necessarily gain an
6 unconscionable advantage because Defendants would be able to exploit and overwhelm the
7 limited resources of each individual member of the Class and Subclasses with Defendants'
8 vastly superior financial and legal resources;

9 c. Requiring each individual member of each of the Class and Subclasses to
10 pursue an individual remedy would also discourage the assertion of lawful claims by the
11 members of the Class and Subclasses who would be disinclined to pursue an action against
12 Defendants because of an appreciable and justifiable fear of retaliation and permanent damage to
13 their lives, careers and well-being;

14 d. Proof of a common business practice or factual pattern, of which the
15 members of the Class and Subclasses experienced, is representative of the Class and Subclasses
16 herein and will establish the right of each of the members of the Class and Subclasses to recover
17 on the causes of action alleged herein;

18 e. The prosecution of separate actions by the individual members of the
19 Class and Subclasses, even if possible, would create a substantial risk of inconsistent or varying
20 verdicts or adjudications with respect to the individual members of the Class and Subclasses
21 against Defendants; and which would establish potentially incompatible standards of conduct for
22 Defendants; and/or legal determinations with respect to individual members of the Class and
23 Subclasses which would, as a practical matter, be dispositive of the interest of the other
24 members of the Class and Subclasses who are not parties to the adjudications or which would
25 substantially impair or impede the ability of the members of the Class and Subclasses to protect
26 their interests; and

27

28

1 f. The claims of the individual members of the Class and Subclasses are not
2 sufficiently large to warrant vigorous individual prosecution considering all of the concomitant
3 costs and expenses attending thereto.

4 g. Furthermore, as the damages suffered by each individual member of the
5 class may be relatively small, the expenses and burden of individual litigation would make it
6 difficult or impossible for individual members of the class to redress the wrongs done to them,
7 while an important public interest will be served by addressing the matter as a class action.

15 27. **Existence and Predominance of Common Questions of Fact and Law:** There
16 are common questions of law and fact as to the members of the Class and Subclasses which
17 predominate over questions affecting only individual members of the Class and Subclasses
18 including, without limitation:

19 a. Whether the Class Members qualify for exempt status under the inside or
20 outside salesperson exemption;

21 b. Whether the Class Members qualify for exempt status under the
22 administrative exemption;

23 c. Whether the Class Members are primarily engaged in "sales" of
24 Defendants' pharmaceutical products;

25 d. The extent to which Defendants analyzed the duties and responsibilities
26 of the Class Members before classifying them as exempt;

1 f. Defendants' expectations as to the duties and responsibilities of the Class
2 Members, and whether these expectations are reasonable under the circumstances;

3 g. Whether the various tasks performed by the Class Members qualify as
4 exempt or non-exempt tasks;

5 h. The number of denied meal and rest periods for Class Members over the
6 relevant time period and the amount of pay owing and unpaid;

7 i. Whether Defendants' withholding of overtime pay was willful under
8 the meaning of Labor Code Section 203.

12 k. Whether Defendants' conduct constitutes unfair competition within the
13 meaning of Business and Professions Code sections 17200 and 17203;

14 1. Whether members of the Class and Subclasses are entitled to
15 compensatory damages, and if so, the means of measuring such damages;

16 m. Whether the members of the Class and Subclasses are entitled to
17 injunctive relief;

18 n. Whether the members of the Class and Subclasses are entitled to
19 restitution;

20 o. Whether Defendants are liable for pre-judgment interest; and
21 p. Whether Defendants are liable for attorneys' fees and costs.

V.

CAUSES OF ACTION

**First Cause of Action Against All Defendants
Labor Code Section 1194
(On Behalf of Overtime Subclass A)**

28. Plaintiff incorporates all preceding paragraphs of this Complaint.

1 29. Pursuant to California Labor Code section 1194, Plaintiff and the Overtime
2 Subclass A members are entitled to recover their unpaid overtime compensation for hours
3 worked beyond 8 hours per day, 40 hours per week, plus attorneys' fees and costs, in an amount
4 to be proved at trial.

**Second Cause of Action Against All Defendants
Unfair Competition/Restitution of Overtime Wages
(On Behalf of Overtime Subclass A)**

30. Plaintiff incorporates all preceding paragraphs of this Complaint.

8 31. Wage Order 4-2001, 8 C.C.R. section 11040, which applies to Defendants'
9 business, states that an employee must be paid overtime, equal to 1.5 times the employee's
10 regular rate of pay, for all hours worked in excess of 40 per week or 8 per day.

32. Overtime Subclass A members regularly work more than 40 hours per week
and/or 8 hours per day, but are not paid overtime. Overtime Subclass A and B members are not
exempt because, *inter alia*, they do not qualify for the commissioned sales exemption under
Wage Order 4-2001, section 3(D).

15 33. Defendants have committed an act of unfair competition by not paying the
16 required overtime pay to the members of Overtime Subclass A.

17 34. Pursuant to Bus. & Prof. Code section 17203, Plaintiff requests an order
18 requiring Defendants to make restitution of all overtime wages due to Overtime Subclass A, in
19 an amount to be proved at trial.

**Third Cause of Action Against All Defendants
Unfair Competition/Restitution of Overtime Wages
(On Behalf of Overtime Subclass B)**

23 || 35. Plaintiff incorporates all preceding paragraphs of this Complaint.

24 36. The Fair Labor Standards Act, 29 U.S.C. section 201 et seq., (FLSA) states that
25 an employee must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all
26 hours worked in excess of 40 per week. This court has concurrent jurisdiction over claims
27 involving the FLSA pursuant to 29 U.S.C. section 216(b).

1 37. Overtime Subclass B members regularly work more than 40 hours per week, but
2 are not paid overtime. Subclass B members were not “exempt” under the FLSA, because, inter
3 alia, they did not sell prescription drugs, but merely promoted and marketed the prescription
4 drugs sold by Defendant to physicians, hospitals, and pharmacies. Defendants have committed
5 an act of unfair competition by not paying the required overtime pay to the members of
6 Overtime Subclass B.

7 38. Pursuant to Bus. & Prof. Code section 17203, Plaintiff requests an order
8 requiring Defendants to make restitution of all overtime wages due to Overtime Subclass B, in
9 an amount to be proved at trial.

**Fourth Cause of Action Against All Defendants
Labor Code Section 1194
(On Behalf of Subclass C)**

39. Plaintiff incorporates all preceding paragraphs of this Complaint.

13 40. Subclass C members regularly work more than 40 hours per week and/or 8 hours
14 per day, but are not paid overtime. Overtime Subclass C members are not exempt because, inter
15 alia, they are production workers, they do not spend a majority of their time on exempt tasks,
16 and they do not customarily and regularly exercise discretion and independent judgment in
17 matters of consequence to Defendants' business.

41. Pursuant to California Labor Code section 1194, Plaintiff and the Subclass C
19 members are entitled to recover their unpaid overtime compensation, plus attorneys' fees and
20 costs, in an amount to be proved at trial.

**Fifth Cause of Action Against All Defendants
Unfair Competition/Restitution of Overtime Wages
(On Behalf of Overtime Subclass C)**

42. Plaintiff incorporates all preceding paragraphs of this Complaint.

43. Subclass C members regularly work more than 40 hours per week and/or 8 hours
per day, but are not paid overtime. Overtime Subclass C members are not exempt because, inter
alia, they are production workers, they do not spend a majority of their time on exempt tasks,

1 and they do not customarily and regularly exercise discretion and independent judgment in
2 matters of consequence to Defendants' business.

3 44. Defendants have committed an act of unfair competition by not paying the
4 required overtime pay to the members of Overtime Subclass C.

5 45. Pursuant to Bus. & Prof. Code section 17203, Plaintiff requests an order
6 requiring Defendants to make restitution of all overtime wages due to Overtime Subclass C, in
7 an amount to be proved at trial.

8 **Sixth Cause of Action Against All Defendants**
9 **Failure to Provide Meal Breaks**
10 **(On Behalf of Meal Period Subclass)**

11 46. Plaintiff incorporates all preceding paragraphs of this Complaint.

12 47. Defendants failed to provide the members of Class with all of their required meal
13 breaks. As a result, under Labor Code section 226.7, Plaintiff and the members of Class are
14 entitled to one additional hour's pay for each day a meal break was missed, in an amount to be
15 proved at trial.

16 **Seventh Cause of Action Against All Defendants**
17 **Failure to Provide Rest Breaks**
18 **(On Behalf of Rest Period Subclass)**

19 48. Plaintiff incorporates all preceding paragraphs of this Complaint.

20 49. Defendants failed to provide the members of Class with all of their required rest
21 breaks. As a result, under Labor Code section 226.7, Plaintiff and the members of Class are
22 entitled to one additional hour's pay for each day a rest break was missed, in an amount to be
23 proved at trial.

24 **Eighth Cause of Action Against All Defendants**
25 **Illegal Record Keeping**
26 **(On Behalf of the Illegal Records Subclass)**

27 50. Plaintiff incorporates all preceding paragraphs of this Complaint.

28 51. Labor Code section 226 requires an employer to furnish its employees with an
29 accurate itemized statement in writing showing, among other things, (1) gross wages earned, (2)
30 total hours worked by each respective individual, (3) all deductions, (4) net wages earned and/or

1 (5) all applicable hourly rates in effect during each respective pay period and the corresponding
2 number of hours worked at each hourly rate by each respective individual.

3 52. Therefore, pursuant to Labor Code section 226, California employers are required
4 to maintain accurate records pertaining to the total hours worked for Defendants by the members
5 of the Illegal Records Subclass, including, but not limited to, the total hours worked per pay
6 period and applicable rates of pay.

7 53. The members of the Illegal Records Subclass include all of Defendants'
8 employees for whom Defendants did not list all hours worked.

9 54. As a pattern and practice, in violation of Labor Code section 226(a), Defendants
10 did not furnish each of the members of the Illegal Records Subclass with an accurate itemized
11 statement in writing showing (1) gross wages earned, (2) total hours worked by each respective
12 individual, (3) all deductions, (4) net wages earned and/or (5) all applicable hourly rates in effect
13 during each respective pay period and the corresponding number of hours worked at each hourly
14 rate by each respective individual.

15 55. As a pattern and practice, in violation of Labor Code section 226(a), Defendants
16 did not maintain accurate records pertaining to the total hours worked for Defendants by the
17 members of the Illegal Records Subclass, including, but not limited to, beginning and ending of
18 each work period, the total daily hours worked, and the total hours worked per pay period and
19 applicable rates of pay.

20 56. Pursuant to Labor Code section 226(e), the members of the Illegal Records
21 Subclass are entitled to penalties as follows:

22 a. Fifty dollars (\$50.00) per employee for the initial pay period in which a
23 violation occurs; and

24 b. One hundred dollars (\$100.00) per employee for each violation in a
25 subsequent pay period, not to exceed \$4,000 per claimant.

26 57. Pursuant to Labor Code section 226(g), the members of the Illegal Records
27 Subclass are entitled to injunctive relief to ensure Defendants' compliance with Labor Code
28 section 226.

1 58. The members of the Illegal Records Subclass are entitled to an award of costs
2 and reasonable attorneys' fees.

3 59. Labor Code section 226(a) requires Defendants to itemize in wage statements all
4 deductions from wages of Plaintiff and the members of the proposed Class.

5 60. Defendants have knowingly and intentionally failed to comply with Labor Code
6 section 226(a) on each and every wage statement provided to Plaintiff and members of the
7 proposed subclass.

**Ninth Cause of Action Against All Defendants
Unfair Business Practices
(On Behalf of Plaintiff and the General Public)**

10 61. Plaintiff incorporates all preceding paragraphs of this Complaint.

11 62. Defendants' failure to pay overtime and denied meal and rest period pay to
12 Plaintiff and members of the Class and Subclasses, under the IWC Wage Orders and under
13 California Labor Code, and failure to keep proper records, as alleged herein, constitute unlawful
14 activity prohibited by Business and Professions Code sections 17200, et seq.

15 63. The actions of Defendants in failing to pay Plaintiff and members of the Plaintiff
16 Class and Subclasses in a lawful manner, as will be further alleged herein, constitute false,
17 unfair, fraudulent and deceptive business practices, within the meaning of Business and
18 Professions Code sections 17200, et seq.

19 64. Plaintiff is entitled to an injunction and other equitable relief against such
20 unlawful practices in order to prevent future damage, for which there is no adequate remedy at
21 law, and to avoid a multiplicity of lawsuits. Plaintiff brings this cause individually and as a
22 member of the general public as a representative of all others subject to Defendants' unlawful
23 acts and practices.

24 65. As a result of their unlawful acts, Defendants have reaped and continue to reap
25 unfair benefits at the expense of Plaintiff, and the Class and Subclasses he seeks to represent.

26 66. Defendants should be enjoined from this activity and made to disgorge these ill-
27 gotten gains and restore to Plaintiff and the members of the Class and Subclasses the wrongfully
28 withheld wages and meal and rest period pay, pursuant to Business and Professions Code

1 section 17200, et seq. Plaintiff is informed and believe, and thereon alleges, that Defendants are
2 unjustly enriched through their failure to pay overtime and minimum wages to Plaintiff and
3 members of the Class and Subclasses.

4 67. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and members
5 of the Class are prejudiced by Defendants' unfair trade practices.

6 68. As a direct and proximate result of the unfair business practices of Defendants,
7 Plaintiff, individually and on behalf of all employees similarly situated, is entitled to equitable
8 and injunctive relief, including full restitution, disgorgement, and/or specific performance of
9 payment of all wages and pay that have been unlawfully withheld from Plaintiff and members of
10 the Class and Subclasses as a result of the business acts and practices described herein and
11 enjoining Defendants to cease and desist from engaging in the practices described herein.

12 69. The illegal conduct alleged herein is continuing, and there is no indication that
13 Defendants will not continue such activity into the future. Plaintiff alleges that if Defendants are
14 not enjoined from the conduct set forth in this Complaint, they will continue to avoid paying
15 overtime, minimum wages, and appropriate taxes, insurance, and unemployment withholdings.

16 70. Plaintiff further requests that the court issue a preliminary and permanent
17 injunction prohibiting Defendants to continue engaging in the practices described hereinabove.

18 **Tenth Cause of Action Against All Defendants**
19 **Conversion**
20 **(On Behalf of Plaintiff and the General Public)**

21 71. Plaintiff incorporates all preceding paragraphs of this Complaint.

22 72. At all relevant times herein, Defendants had a legal obligation imposed by
23 statutory law to compensate Plaintiff and the Class and Subclasses for all of the hours worked,
24 overtime, and minimum wages. Plaintiff has hereinbefore alleged that he and the Class were not
25 compensated for all hours worked, overtime, minimum wages, and that such payments are due.

26 73. Defendants knowingly and intentionally failed and refused to pay for all hours
27 worked, overtime, and minimum wages. Defendants withheld these sums and converted them
28 by refusing to pay Plaintiff and the Class as alleged herein. Plaintiff and the Class owned or had

1 the right to own and had the legal right to hold, possess and dispose of, the withheld wages, and
2 Plaintiff and the Class and Subclasses rely on this statutory right. Plaintiff and the Class and
3 Subclasses gained the right to hold, possess, and dispose of the compensation as Plaintiff and
4 the members of the Class earned these wages during the relevant time period.

5 74. Defendants knowingly, willfully and unlawfully interfered with Plaintiff's and
6 the Class Members' rights to be compensated, and to own, possess and/or control disposition of
7 said sums. Plaintiff is informed and believes and thereon alleges that he and each of the
8 members of the Class were not paid overtime and minimum wages. Plaintiff and the members of
9 the Class and Subclasses are entitled to overtime and minimum wages.

10 75. The exact amount of the unpaid wages and pay owed to Plaintiff and the
11 members of the Class and Subclasses, and each of them, is capable of being made certain. The
12 specific identifiable sum of money Plaintiff and the members of the Class are entitled to varies
13 per class member and will be established at trial in an amount according to proof.

14 76. In failing to pay overtime and minimum wages, Defendants knowingly,
15 unlawfully and intentionally took, appropriated and converted the property (wages) of Plaintiff
16 and the Class for Defendants' own use, purposes and benefits. At the time the conversion took
17 place, Plaintiff and the Class and Subclasses were entitled to immediate possession of the
18 amounts of wages as they were entitled to such compensation under Labor Code sections 1194,
19 Business and Professions Code sections 17200, et seq., I.W.C. Wage Order 4, and 29 U.S.C.
20 §§201, et seq. Said conversion was oppressive, malicious and fraudulent, and Defendants'
21 obligation to compensate was concealed by Defendants from the named Plaintiff and from the
22 class membership, as hereinafter alleged. Further, Defendants knew that Plaintiff and the
23 members of the class were, in fact, entitled to full payment of earned wages and pay, and
24 knowingly refused payment to Plaintiff and the Class and Subclasses, and instead utilized the
25 money they would otherwise have had to pay to Plaintiff and the Class Members for
26 Defendants' own purposes and benefits.

27 77. Defendants have regularly and consistently maintained corporate policies and
28 procedures that dictated and mandated that Class Members were not to be paid for overtime and
CLASS ACTION COMPLAINT

1 minimum wages. Plaintiff is informed and believes and thereon alleges that Defendants
2 implemented and carried out the policies and procedures as alleged herein for the primary
3 purpose of depriving Plaintiff and the Class of their right to these wages under Labor Code
4 section 1194 such that Defendants converted said sums for their own uses, as heretofore alleged.

5 78. Plaintiff is informed and believes and thereon alleges that Class Members carry
6 out their tasks, duties and responsibilities for Defendants in substantially similar fashion as
7 heretofore alleged. Accordingly, Defendants have taken sums owed to Plaintiff and the Class
8 and Subclasses and converted the same to their own use and benefit.

9 79. Plaintiff and members of the Class have been injured by said conversion through
10 reliance on the Defendants' obligation to comply with applicable California and federal law,
11 requiring that Defendants pay overtime and minimum wages to Plaintiff and the Class and
12 Subclasses. Plaintiff and the Class and Subclasses are entitled to all money converted by the
13 Defendants with interest thereon, as well as any and all profits, whether direct or indirect, which
14 the Defendants acquired by their unlawful conversion. Furthermore, Defendants' actions
15 constituting conversion were oppressive, malicious and fraudulent and were concealed by
16 Defendants from the named Plaintiff and the Class Members as hereinbefore alleged. Plaintiff
17 and the Class and Subclasses have been injured by Defendants' oppressive, malicious,
18 intentional and fraudulent actions, entitling Plaintiff and the Class to punitive and exemplary
19 damages.

20 80. WHEREFORE, Plaintiff and the Class and Subclasses he seeks to represent
21 requests relief as described below.

Eleventh Cause of Action Against All Defendants (Declaratory Relief - By Plaintiff Only)

24 81. Plaintiff incorporates all preceding paragraphs of this Complaint.

25 82. An actual controversy has arisen and continues to exist between Plaintiff and
26 Defendants in that Plaintiff contends that he was not employed in an outside sales capacity,
27 whereas Defendants claim he was.

1 83. A judicial declaration is necessary and proper at this time to resolve this actual
2 controversy between Plaintiff and Defendants and to establish the respective rights and duties of
3 the parties.

PRAYER FOR RELIEF

5 PRAYER FOR RELIEF WHEREFORE, Plaintiff prays:

6 1. That the Court issue an Order certifying the Class and Subclasses herein,
7 appointing the named Plaintiff as representative of all others similarly situated, and appointing
8 the law firms representing the named Plaintiff as counsel for the members of the Class and
9 Subclasses;

10 As to the First Cause of Action for Overtime Pay:

11 2. For payment of overtime pay;

12 3. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil
13 Code sections 3287(b) and 3289;

14 4. For an award of reasonable attorneys' fees and costs;

5. **Constitution of overtime pay**

17 6. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil
18 Code sections 3287(b) and 3289.

19 7 For an award of reasonable attorneys' fees and costs:

As to the Third Cause of Action for Re

21 8. For restitution of overtime pay;

22 9. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil

23 | Code sections 3287(b) and 3289:

10 For an award of reasonable attorney's fees.

12 For interest as authorized by Labor Code section

38 | Code sections 3287(b) and 3289:

13. For an award of reasonable attorneys' fees and costs.

2 As to the Fifth Cause of Action for Restitution of Overtime:

3 14. For restitution of overtime pay;

4 15. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil
5 Code sections 3287(b) and 3289;

6 16. For an award of reasonable attorneys' fees and costs.

7 As to the Sixth Cause of Action for Meal Period Violations:

8 17. For payment of meal period pay;

9 18. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil
10 Code sections 3287(b) and 3289;

11 19. For an award of reasonable attorneys' fees and costs;

12 As to the Seventh Cause of Action for Rest Period Violations:

13 20. For payment of rest period pay;

14 21. For interest as authorized by Labor Code sections 218.6 and 1194(a) and Civil
15 Code sections 3287(b) and 3289;

16 22. For an award of reasonable attorneys' fees and costs;

17 As to the Eighth Cause of Action for Illegal Record Keeping:

18 23. For penalties as authorized by Labor Code section 226(e);

19 24. For injunctive relief to ensure Defendants' compliance with Labor Code section
20 226 pursuant to Labor Code section 226(g);

21 25. For an award of costs and reasonable attorneys' fees.

22 As to the Ninth Cause of Action for Unfair Business Practices:

23 26. For an accounting, under administration of Plaintiff and/or the receiver and
24 subject to Court review, to determine the amount to be returned by Defendants, and the amounts
25 to be refunded to members of the Class and Subclasses who are owed monies by Defendants;

26 27. For an Order requiring Defendants to identify each of the members of the Class
27 and Subclasses by name, home address, and home telephone number;

1 28. For an Order requiring Defendants to make full restitution and payment pursuant
2 to Labor Code sections 200, et seq. and 1194;
3 29. For the creation of an administrative process wherein each injured member of the
4 Class and Subclasses may submit a claim in order to receive his/her money;
5 30. For all other appropriate declaratory and equitable relief;
6 31. For interest to the extent permitted by law;
7 32. For an award of attorneys' fees and costs incurred in the investigation, filing and
8 prosecution of this action pursuant to Code of Civil Procedure section 1021.5, Business and
9 Professions Code sections 17200, et seq., Labor Code section 1194 and any other applicable
10 provision of law.

11 As to the Tenth Cause of Action for Conversion:

12 32. For the return of all sums wrongfully converted;

13 As to the Twelfth Cause of Action for Declaratory Relief:

14 33. For a Declaration of the respective rights and responsibilities of the parties;

15 As to All Causes of Action:

16 34. For penalties as authorized by Labor Code section 203;

17 35. For such other and further relief as this Court may deem just and proper; and

18 36. For reasonable attorneys' fees and costs incurred.

19 WHEREFORE, Plaintiff prays for judgment as follows:

20 1. For compensatory damages;

21 2. For restitution of all money due to Plaintiff and the Class from the unlawful
22 business practices of Defendants;

23 3. For waiting time wages under Labor Code section 203.

24 4. For punitive damages under Civil Code section 3294; and

25 5. For such other and further relief that the Court may deem just and proper.

26 ///

27 ///

28 ///

1 DATED: November 1, 2006

COHELAN & KHOURY

2 By:

3 MICHAEL D. SINGER
4 Counsel for Plaintiff

5 **DEMAND FOR JURY TRIAL**

6 Plaintiff hereby demands a jury trial.

7 DATED: November 1, 2006

8 COHELAN & KHOURY

9 By:

10 MICHAEL D. SINGER
11 Counsel for Plaintiff

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
<p>TIMOTHY D. COHELAN, ESQ. SBN 60827 MICHAEL D. SINGER, ESQ. SBN 115301 COHELAN & KHOURY 605 C ST. SUITE 200 SAN DIEGO, CA 92101 TELEPHONE NO.: 619-595-3001 FAX NO.: 619-595-3000</p>		<p>CIVIL BUSINESS OFFICE 9 CENTRAL FILED</p>
ATTORNEY FOR (Name): PLAINTIFF		
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</p> <p><input checked="" type="checkbox"/> HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101-3827 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081-6843 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020-3941 <input type="checkbox"/> RAMONA BRANCH, 1428 MONTECITO RD., RAMONA, CA 92065-5200 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910-5649</p>		
<p>CASE NAME: OBLITAS-RIOS V. PFIZER, INC.</p>		
<p>CIVIL CASE COVER SHEET</p> <p><input checked="" type="checkbox"/> Unlimited <input type="checkbox"/> Limited (Amount demanded exceeds \$25,000) (Amount demanded is \$25,000 or less)</p>		<p>Complex Case Designation</p> <p><input type="checkbox"/> Counter <input type="checkbox"/> Joinder</p> <p>Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)</p>
		<p>CASE NUMBER: GIC 874925</p> <p>JUDGE: DEPT:</p>

Items 1-5 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812)
<input type="checkbox"/> Auto (22)	<input type="checkbox"/> Breach of contract/warranty (06)	<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Uninsured motorist (46)	<input type="checkbox"/> Collections (09)	<input type="checkbox"/> Construction defect (10)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	<input type="checkbox"/> Insurance coverage (18)	<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Asbestos (04)	<input type="checkbox"/> Other contract (37)	<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Product liability (24)	Real Property	<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Medical malpractice (45)	<input type="checkbox"/> Eminent domain/inverse condemnation (14)	<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<input type="checkbox"/> Other PI/PD/WD (23)	<input type="checkbox"/> Wrongful eviction (33)	
Non-PI/PD/WD (Other) Tort	<input type="checkbox"/> Other real property (26)	
<input type="checkbox"/> Business tort/unfair business practice (07)	Unlawful Detainer	Enforcement of Judgment
<input type="checkbox"/> Civil rights (08)	<input type="checkbox"/> Commercial (31)	<input type="checkbox"/> Enforcement of judgment (20)
<input type="checkbox"/> Defamation (13)	<input type="checkbox"/> Residential (32)	Miscellaneous Civil Complaint
<input type="checkbox"/> Fraud (16)	<input type="checkbox"/> Drugs (38)	<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Intellectual property (19)	Judicial Review	<input type="checkbox"/> Other complaint (not specified above) (42)
<input type="checkbox"/> Professional negligence (25)	<input type="checkbox"/> Asset forfeiture (05)	Miscellaneous Civil Petition
<input type="checkbox"/> Other non-PI/PD/WD tort (35)	<input type="checkbox"/> Petition re: arbitration award (11)	<input type="checkbox"/> Partnership and corporate governance (21)
Employment	<input type="checkbox"/> Writ of mandate (02)	<input type="checkbox"/> Other petition (not specified above) (43)
<input type="checkbox"/> Wrongful termination (36)	<input type="checkbox"/> Other judicial review (39)	
<input checked="" type="checkbox"/> Other employment (15)		

2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- Large number of separately represented parties
- Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- Substantial amount of documentary evidence
- Large number of witnesses
- Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- Substantial postjudgment judicial supervision

3. Type of remedies sought (check all that apply):

- monetary
- nonmonetary; declaratory or injunctive relief
- punitive

4. Number of causes of action (specify): 1

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-016.)

Date: 11/16/06

JAS

JASON CRUS (FOR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

INDEPENDENT CALENDAR CLERK
 330 W. Broadway
 San Diego, CA 92101

TO:
 MICHAEL D. SINGER (P)

FILE COPY

FERNANDO OBLITAS-RIOS	Plaintiff(s)	Case No.: GIC874925
vs.		
PFIZER INC	Defendant(s)	Judge: JAY M. BLOOM Department: 70 Phone: 619-685-6128

COMPLAINT FILED 11/01/06

IT IS THE DUTY OF EACH PLAINTIFF (AND CROSS-COMPLAINANT) TO SERVE A COPY OF THIS NOTICE WITH THE COMPLAINT (AND CROSS-COMPLAINT).

ALL COUNSEL WILL BE EXPECTED TO BE FAMILIAR WITH SUPERIOR COURT RULES WHICH HAVE BEEN PUBLISHED AS DIVISION II, AND WILL BE STRICTLY ENFORCED.

TIME STANDARDS: The following timeframes apply to general civil cases and must be adhered to unless you have requested and been granted an extension of time. General civil consists of all cases except: Small claims appeals, petitions, and unlawful detainers.

COMPLAINTS: Complaints must be served on all named defendants, and a CERTIFICATE OF SERVICE (SDSC CIV-345) filed within 60 days of filing. This is a mandatory document and may not be substituted by the filing of any other document. (Rule 2.5)

DEFENDANT'S APPEARANCE: Defendant must generally appear within 30 days of service of the complaint. (Plaintiff may stipulate to no more than a 15 day extension which must be in writing and filed with the Court.) (Rule 2.6)

DEFAULT: If the defendant has not generally appeared and no extension has been granted, the plaintiff must request default within 45 days of the filing of the Certificate of Service. (Rule 2.7)

THE COURT ENCOURAGES YOU TO CONSIDER UTILIZING VARIOUS ALTERNATIVES TO LITIGATION, INCLUDING MEDIATION AND ARBITRATION, PRIOR TO THE CASE MANAGEMENT CONFERENCE. MEDIATION SERVICES ARE AVAILABLE UNDER THE DISPUTE RESOLUTION PROGRAMS ACT AND OTHER PROVIDERS. SEE ADR INFORMATION PACKET AND STIPULATION.

YOU MAY ALSO BE ORDERED TO PARTICIPATE IN ARBITRATION PURSUANT TO CCP 1141.10 AT THE CASE MANAGEMENT CONFERENCE. THE FEE FOR THESE SERVICES WILL BE PAID BY THE COURT IF ALL PARTIES HAVE APPEARED IN THE CASE AND THE COURT ORDERS THE CASE TO TO ARBITRATION PURSUANT TO CCP 1141.10. THE CASE MANAGEMENT CONFERENCE WILL BE CANCELLED IF YOU FILE FORM SDSC CIV-359 PRIOR TO THAT HEARING.

ALSO SEE THE ATTACHED NOTICE TO LITIGANTS.

CERTIFICATE OF SERVICE

I certify that I am not a party to the above-entitled case; on the date shown below, I served this notice on the parties shown by personally handing it to the attorney or their personal representative at SAN DIEGO California.

DATED: 11/01/06

BY: CLERK OF THE SUPERIOR COURT

COPY

FILED
CIVIL BUSINESS OFFICE 7
CENTRAL DIVISION
DEPT. 11-2FILED
CIVIL BUSINESS OFFICE 7
CENTRAL DIVISION
DEPT. 11-2

2006 DEC -1 P 1:41

COURT OF APPEAL
SAN DIEGO COUNTY, CAFILE STAMP
CANCELLED

1 JEREMY A. ROTH, Bar No. 129007
 2 TINA M. FRYAR, Bar No. 190755
 3 MICHELLE S. PARK, Bar No. 199224
 4 LITTLER MENDELSON
 5 A Professional Corporation
 6 501 W. Broadway, Suite 900
 7 San Diego, CA 92101-3577
 8 Telephone: 619.232.0441

9
 10 Attorneys for Defendant
 11 PFIZER, INC.
 12

13 FERNANDO OBLITAS-RIOS, on behalf
 14 of himself and all others similarly situated,

15 Plaintiff,

16 v.

17 PFIZER, INC., a California Corporation;
 18 and DOES 1 - 100, inclusive,

19 Defendant.

20 Case No. GIC 874925

21 DEFENDANT'S ANSWER TO
 22 PLAINTIFF'S COMPLAINT

23 Complaint filed: November 1, 2006

24
 25 Defendant PFIZER, INC. (hereinafter "Defendant") submits the following response
 26 to the unverified Complaint ("Complaint") filed by Plaintiff FERNANDO OBLITAS-RIOS
 27 ("Plaintiff").

28 **GENERAL DENIAL**

29 Pursuant to the provisions of Code of Civil Procedure section 431.30(d), Defendant
 30 denies generally and specifically each and every allegation contained in Plaintiff's Complaint. In
 31 addition, Defendant denies that Plaintiff has sustained, or will sustain, any loss or damage in the
 32 manner or amount alleged, or otherwise, by reason of any act or omission, or any other conduct or
 33 absence thereof on the part of Defendant.

34 **AFFIRMATIVE DEFENSES**

35 **FIRST AFFIRMATIVE DEFENSE**

36 As a separate and distinct affirmative defense, Defendant alleges that the Complaint,

37 Firmwide: 81729763.1 051034.1019

1 and each and every alleged claim therein, fails to state facts sufficient to constitute a claim upon
2 which relief can be granted.

3 **SECOND AFFIRMATIVE DEFENSE**

4 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff has
5 failed, refused and/or neglected to mitigate or avoid the damages complained of in the Complaint, if
6 any.

7 **THIRD AFFIRMATIVE DEFENSE**

8 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
9 claims for equitable relief are barred by the doctrines of waiver, unclean hands, estoppel and/or
10 laches.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not
13 entitled to equitable relief insofar as he has an adequate remedy at law.

14 **FIFTH AFFIRMATIVE DEFENSE**

15 As a separate and distinct affirmative defense, Defendant alleges that the Complaint
16 and each and every claim alleged therein is barred by all applicable statutes of limitations, including
17 but not limited to, Code of Civil Procedure sections 338, 339, 340, California Business and
18 Professions Code section 17208, and 29 U.S.C. section 255, and other applicable statutes of
19 limitations.

20 **SIXTH AFFIRMATIVE DEFENSE**

21 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff has not
22 and cannot satisfy the requirements for proceeding in a collective action under the provisions of
23 section 382 of the California Code of Civil Procedure on behalf of others "similarly situated."

24 **SEVENTH AFFIRMATIVE DEFENSE**

25 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff and all
26 alleged potential class members have been paid and/or received all wages due to them by virtue of
27 their employment with Defendant.

28 ///

EIGHTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff lacks standing to file and/or prosecute this action against Defendant and/or to receive any attorneys' fees.

NINTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that the Complaint fails to properly state a claim for attorney's fees under California Labor Code sections 218.5 and 1194(a), California Business and Professions Code section 17200, *et seq.*, or any other basis.

TENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant is informed and believes and based thereon alleges that Plaintiff was treated fairly and in good faith, and that Defendant acted in good faith at all times alleged in the Complaint, and at no time did Defendant engage in unfair or deceptive business practices.

ELEVENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges Plaintiff's alleged injuries were not proximately caused by any unlawful policy, custom, practice and/or procedure promulgated and/or tolerated by Defendant.

TWELFTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that, assuming *arguendo*, Plaintiff is entitled to recover additional compensation on behalf of himself and/or others, Defendant has not willfully or intentionally failed to pay such additional compensation, and as such, liquidated damages should not be awarded and only a two-year statute of limitations should apply under the Fair Labor Standards Act.

THIRTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Defendant has not willfully failed to pay Plaintiff any wages, and there is a bona fide, good faith dispute with respect to Defendant's obligation to pay any wages that may be found to be due.

///

///

FOURTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's causes of action for, or based upon, a violation of Labor Code section 226.7 fails and/or recovery is limited as a matter of law because the one-hour-of-pay remedy for meal and rest period violations is a penalty, not wages, and therefore, the claim has a one year statute of limitations under California Code of Civil Procedure Section 340(a).

FIFTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff does not, and cannot, fairly and adequately represent the interests of the purported class.

SIXTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's claim for penalties is barred because Defendant acted in good faith and reasonably believed that its conduct was lawful.

SEVENTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that certification of a class, as applied to the facts and circumstances of this case, would constitute a denial of Defendant's procedural rights and right to trial by jury and to substantive and procedural due process, in violation of the Fourteenth Amendment of the United States Constitution and the Due Process and Equal Protection Clauses of the California Constitution.

EIGHTEENTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant alleges that this suit may not be properly maintained as a class action because: (1) Plaintiff has failed to plead, and cannot establish, the necessary procedural elements for class treatment; (2) a class action is not an appropriate method for the fair and efficient adjudication of the claims described in the Complaint; (3) common issues of fact or law do not predominate and, to the contrary, individual issues predominate; (4) Plaintiff's claims are not representative or typical of the claims of the putative class; (5) Plaintiff is not a proper class representative; (6) Plaintiff and his counsel of record are not adequate representatives for the alleged putative class; (7) Plaintiff cannot satisfy any of the

1 requirements for class action treatment, and class action treatment is neither appropriate nor
 2 constitutional; (8) there is not a well-defined community of interest in the questions of law or fact
 3 affecting Plaintiff and the members of the alleged putative class; (9) the alleged putative class is not
 4 ascertainable, nor are its members identifiable; and (10) to the extent that the alleged putative class is
 5 ascertainable and its members are identifiable, the number of putative class members is too small to
 6 meet the numerosity requirement for a class action.

7 **NINETEENTH AFFIRMATIVE DEFENSE**

8 As a separate and distinct affirmative defense, Defendant alleges that the adjudication
 9 of the claims of the putative class through generalized classwide proof violates Defendant's rights to
 10 a trial by jury guaranteed by the United States and California Constitutions.

11 **TWENTIETH AFFIRMATIVE DEFENSE**

12 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff cannot
 13 recover lost wages, penalties or other monetary remedies under Business and Professions Code
 14 section 17200 *et seq.*

15 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

16 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not
 17 entitled to an award of prejudgment interest if he prevails on any or all of his claims.

18 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

19 As a separate and distinct affirmative defense, Defendant alleges that the Complaint
 20 fails to properly state facts sufficient to entitle Plaintiff or putative class members to any relief,
 21 including, but not limited to, its failure to properly state facts sufficient to identify any actual or
 22 threatened harm to Plaintiff beyond pure speculation, its failure to allege facts showing that Plaintiff
 23 has no adequate remedy at law, and its proposal of relief that would impose an undue burden on both
 24 Defendant and the Court and be so uncertain as to be wholly unenforceable.

25 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

26 As a separate and distinct affirmative defense, Defendant alleges that Plaintiff has
 27 failed to allege sufficient facts to state a claim upon which punitive damages may be awarded.

28 ///

TWENTY-FOURTH AFFIRMATIVE DEFENSE

As a separate and distinct affirmative defense, Defendant opposes class certification and dispute the propriety of class treatment. If the Court certifies a class in this case over Defendant's objections, then Defendant asserts the affirmative defenses set forth herein against each and every member of the certified class.

ADDITIONAL DEFENSES

Defendant does not presently know all facts with respect to the conduct alleged by Plaintiff sufficient to state all affirmative defenses at this time. Defendant reserves the right to amend this Answer should it later discover facts demonstrating the existence of additional affirmative defenses.

WHEREFORE, Defendant prays that:

1. The Complaint be dismissed in its entirety with prejudice and Plaintiff take nothing by his Complaint;
2. Judgment be entered against Plaintiff and in favor of Defendant;
3. Defendant be awarded its costs of suit and reasonable attorneys' fees incurred herein; and
4. The Court award Defendant such other and further relief as it deems appropriate.

Dated: December 7, 2006

Michelle Park

JEREMY A. ROTH
TINA M. FRYAR
MICHELLE S. PARK
LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
PFIZER, INC.

PROOF OF SERVICE

2006 DEC - 7 P 1:41

FILE STAMP
CANCELLLED

I am a resident of the State of California, over the age of ~~eleven~~ years, and not a party to the within action. My business address is 501 W. Broadway, Suite 900, San Diego, California 92101-3577. On December 7, 2006, I served the within document(s):

DEFENDANT'S ANSWER TO PLAINTIFF'S COMPLAINT

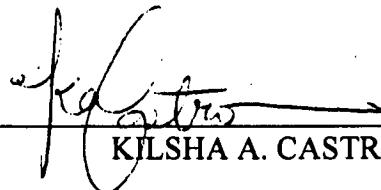
- by facsimile transmission at or about _____ on that date. This document was transmitted by using a facsimile machine that complies with California Rules of Court Rule 2003(3), telephone number 619.232.4302. The transmission was reported as complete and without error. A copy of the transmission report, properly issued by the transmitting machine, is attached. The names and facsimile numbers of the person(s) served are as set forth below.
- by placing a true copy of the document(s) listed above for collection and mailing following the firm's ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at San Diego, California addressed as set forth below.
- by depositing a true copy of the same enclosed in a sealed envelope, with delivery fees provided for, in an overnight delivery service pick up box or office designated for overnight delivery, and addressed as set forth below.
- by personally delivering a copy of the document(s) listed above to the person(s) at the address(es) set forth below.

Timothy D. Cohelan, Esq.
Isam C. Khoury, Esq.
Michael D. Singer, Esq.
COHELAN & KHOURY
605 C Street, Suite 200
San Diego, CA 92101-5305
Phone: 619.595.3001
Fax: 619.595.3000

Attorneys for Plaintiffs

I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business.

1 I declare under penalty of perjury under the laws of the State of California that the
2 above is true and correct. Executed on December 7, 2006, at San Diego, California.

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5 KILSHA A. CASTRO

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2.

PROOF OF SERVICE

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

FERNANDO OBLITAS-RIOS, on behalf of himself and all others similarly situated

DEFENDANTS

PFIZER, INC., a California Corporation; and DOES 1-100

County of Residence of First Listed 06 DEC 8 AM 11:56

(IN U.S. PLAINTIFF CASES ONLY) AT COURT
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

PTO DEPUTY

Attorneys (If Known)

JEREMY A. ROTH, Bar No. 129007

TINA M. FRYAR, Bar No. 190755

MICHELLE S. PARK, Bar No. 199224

501 West Broadway, Suite 900

San Diego, CA 92101-3577

Tel. (619) 232-0441

Fax: (619) 232-4302

'06 CV 2679BTM POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
<input checked="" type="checkbox"/> 1 Citizen of This State	<input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
<input type="checkbox"/> 2 Citizen of Another State	<input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
<input type="checkbox"/> 3 Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury—Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 410 Other	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 875 Customer Challenge
<input type="checkbox"/> 196 Franchise				12 USC 3410
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	PROPERTY RIGHTS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty		<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 895 Freedom of Information Act
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes
V. ORIGIN	(Place an "X" in One Box Only)			
<input type="checkbox"/> 1 Original Proceeding	<input checked="" type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify)
				<input type="checkbox"/> 6 Multidistrict Litigation
				<input type="checkbox"/> 7 Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 USC §§ 201, et seq.

Brief description of cause:

FLSA Classification Claims

VI. CAUSE OF ACTION

CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23

DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

132634 \$350 set 12/8/10

VIII. RELATED CASE(S)

(See instructions):

IF ANY

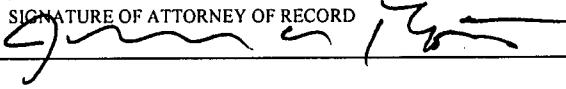
JUDGE

DOCKET NUMBER

DATE

12/18/09

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES
DISTRICT COURT
Southern District of California
San Diego Division

132634 - A1
December 8, 2006

Code	Case #	Qty	Amount
39086900	3-06-CV-2679		60.00 CH
Judge	- MOSKOWITZ		
00086400			100.00 CH
00510000			190.00 CH
Total-->			350.00

FROM: CIVIL FILING
FERNANDO OBLITAS-RIOS V.
PFIZER INC
RCB 288406 SM